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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,686	01/24/2001	Eric Edwards	80398.P361	5370
7590	02/10/2006		EXAMINER	
Maria McCormack Sobrino BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP 7th Floor 12400 Wilshire Boulevard Los Angeles, CA 90025			DESIRE, GREGORY M	
			ART UNIT	PAPER NUMBER
			2627	
DATE MAILED: 02/10/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/769,686	EDWARDS ET AL.
	Examiner	Art Unit
	Gregory M. Desire	2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 08 November 2005.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12, 17-29, 34-46 and 51 is/are rejected.
- 7) Claim(s) 13-16, 30-33 and 47-50 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 1/24/01 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 8/31/05.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This action is responsive to communication filed 11/08/05.

### ***Response to Amendment***

2. Applicant's arguments filed in view of 35 U.S.C 103 have been fully considered but they are not persuasive and are thus maintained. See response to arguments below.

### ***Response to Arguments***

3. Applicant argues (remarks page 10 lines 1-20) neither Anderson nor Shimori teach image editing operation having performed on a first image to obtain the first edited image (note col. 3 lines 51-53, a plane file which the examiner interprets as an image is described as a predefined effects, which is examiner interprets as predefined result based on influences, i.e. changes, editing, by a user.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5, 10-12, 17-20, 22, 27-29, 34-37, 39, 44-46 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (6,912,311) in view of Shimori (6,567,983).

Regarding claims 1, 12, 18, 29, 35 and 46 Anderson discloses, Forming an image template containing (note col. 3 lines 51-52 cites a template represented by) a first edited image (col. 3 lines 50-62, examiner interprets the plane file as images, instructions are applied to a plane, thus forming an edited image) and a selected record of at least one image editing operation (note col. 3 line 62- col. 4 line 4, examiner interprets the template file with instructions called tags or hints as records of editing operations), said image editing operation having been performed on a first image to obtain said first edited image(note fig. 7 in connection with col. 4 lines 39-50, fig. 10, fig. 11 and fig. 13 and col. 5 and col. 6, the examiner primarily focuses on fig. 13, shows template 1320, shows and edited image (planed) where the editing operation of masking is performed on the background image plane);

Applying said image template to at least a second image (note fig. 4 block 420 and col. 4 lines 5-7 and 11-12, image template is clearly applied to a selected image interpreted as a second image).

Anderson does not disclose expressly background plane as an image. Shimori discloses background image (note fig. 5 and col. 6 lines 66-67, shows a clean background image plane prior to editing). Anderson and Shimori are combinable because they are from the same field of image editing. At the time of the invention it would have been obvious to a person of ordinary skill in the art to include background

image in the system of Anderson as a first image as evidenced by Shimori. The suggestion/motivation for doing so would have been representing a frame image for editing image is created (note col. 6 lines 30-43). Therefore it would have been obvious to combine Anderson with Shimori to obtain the invention as specified in the above claims.

Regarding claims 2, 19 and 36 Anderson and Shimori discloses,

Storing selected record of at least one image editing operation with first edited image in an image file (note fig. 7, stores editing operation and plane list 730).

Regarding claims 3, 20 and 37 Anderson and Shimori discloses,

Storing selected record at least one image editing operation in a storage file separate from said first edited image (note plane file col. 2 line 50-60, is separate from tags (image editing operation)).

Regarding claims 5, 22 and 39 Anderson and Shimori discloses,

Image editing operation further comprises enhancing color characteristics of said first image (note col. 6 lines 35-40).

Regarding claims 10, 17, 27, 34, 44 and 51 Anderson and Shimori discloses,

Receiving said at least one image editing operation from a user (note col. 6 examiner interprets choosing template as user selecting editing operation).

Regarding claims 11, 28 and 45 Anderson and Shimori discloses,

Retrieving an image from a database module and transmitting said first image to a user (note col. 6 lines 59-67, examiner interpret image catalog being retrieved from database and transmitted to operator).

6. Claims 4, 21 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Shimori in view of Rissman (6,552,743)

Regarding claims 4, 21 and 38 Anderson and Shimori are silent disclosing,

Image editing operation comprises cropping an image. However, Rissman includes cropping an image in editing operation (note col. 5 lines 36-39)

Therefore it would have been obvious to one having ordinary skills in the art to include cropping an image in an editing operation in the system of Anderson as evidenced by Rissman. Anderson reproduces images of photographed image and performs correction based on said image. Rissman in the same field of endeavor, system is inexpensive and efficient performing editing operations, which include cropping.

7. Claims 6-7, 23-24 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Shimori et al in view of Enomoto.

Regarding claims 6, 23 and 40,

Anderson and Shimori are silent disclosing image editing operation comprising modifying brightness characteristics. Enonomoto discloses modifying brightness

characteristics of said fist image (note col. 12 lines 23-30, cites a unit that adjust brightness). Anderson and Enomoto are combinable because they are from the same field of endeavor print editing. At the time of the invention it would have been obvious to a person of ordinary skill in the art to include modifying brightness in the system of Anderson as evidenced by Enomoto. The suggestion/motivation for doing so would have been image correction to reduce deterioration (note col. 4 lines 20-35).

Regarding claims 7, 24 and 41 Anderson, Shimori and Enomoto discloses,

Image editing operation further comprises modifying luminosity characteristics of said first image (note Anderson col. 15 lines 52-55, examiner interprets decreasing luminosity as modifying luminosity characteristics).

8. Claims 8-9, 25-26 and 42-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson and Shimori in view of Suzuki (5,019,858).

Regarding claims 8, 25 and 42 Anderson and Shimori are silent disclosing,

Applying image effect on a first image. However, Suzuki applies image effect on a first image (note col. 2 lines 63-68).

Therefore it would have been obvious to one having ordinary skills in the art to apply image effects in the system of Anderson as evidenced by Suzuki. Anderson system produces an edited image. Suzuki in the same field of endeavor applies effects

to color components separating and adjusting color components obtaining accurate correction quantities (note col. 2 lines 29-35).

Regarding claims 9, 26 and 43 Anderson, Shimori and Suzuki discloses,

Wherein said image effect is a filter (note Suzuki col. 2 lines 63-68).

***Allowable Subject Matter***

9. Claims 13-16, 30-33 and 47-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-16, 30-33 and 47-50 further limits the function of second edited image.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory M. Desire  
Examiner  
Art Unit 2627

G.D.  
February 2, 2006



SANJIV SHAH  
PRIMARY EXAMINER